

**APPROVED MINUTES
SUNNYVALE CITY COUNCIL
TUESDAY, JULY 15, 2008**

5:00 P.M. SPECIAL JOINT CITY COUNCIL AND REDEVELOPMENT AGENCY MEETING- Study Session - Update on Latest Plans for Downtown Sunnyvale Project and discussion of possible amendments to the Amended and Restated Disposition and Development and Owner Participation Agreement (ARDDOPA) and Special Development Permits for the project.

6:30 P.M. SPECIAL COUNCIL MEETING (Closed Session)- Conference with Real Property Negotiator, pursuant to Government Code §54956.8. Properties: Kasik Parcel and Tasman Parcel. Negotiating Parties: Amy Chan (City); Andy Kasik (Kasik Parcel); Susanna Pau (Tasman Parcel). Under Negotiation: Price and Terms of Payment.

SALUTE TO THE FLAG

Mayor Spitaleri led the salute to the flag.

ROLL CALL

PRESENT:

Mayor Anthony Spitaleri
Vice Mayor Melinda Hamilton
Councilmember John Howe
Councilmember Otto Lee
Councilmember Ron Swegles
Councilmember Christopher Moylan
Councilmember David Whittum

ABSENT:

None

STAFF PRESENT:

City Manager Amy Chan
Assistant City Manager Robert Walker
City Attorney David Kahn
Director of Community Development Hanson Hom
Director of Finance Mary Bradley
Revenue Systems Supervisor Tim Kirby
Director of Public Works Marvin Rose
Youth and Family Resources Manager Angela Chan
Planning Officer Trudi Ryan
Superintendent of Field Services - Public Works Jim Craig
City Engineer/Assistant Director Public Works Mark Rogge
City Clerk Gail Borkowski

SPECIAL ORDER OF THE DAY

Ceremonial Oaths for Newly Appointed Board and Commission Members.

CLOSED SESSION REPORT FOR JULY 15, 2008

Conference with Real Property Negotiator, pursuant to Government Code §54956.8. Properties: Kasik Parcel and Tasman Parcel. Negotiating Parties: Amy Chan (City); Andy Kasik (Kasik Parcel); Susanna Pau (Tasman Parcel). Under Negotiation: Price and Terms of Payment.

Vice Mayor Hamilton: Council had a Closed Session: Conference with Real Property Negotiator, pursuant to Government Code §54956.8. And the meeting was adjourned. We did not finish the discussion so the meeting was adjourned to after this Council meeting and there'll be a Closed Session Report next week.

PUBLIC ANNOUNCEMENTS

Mayor Spitaleri: Thank you. Now it's time for public announcements. Councilmember Howe.

Councilmember Howe: Thank you Mr. Mayor. I have two of 'em...two announcements on behalf of the City Council. The first one is the 2008 State of the City Award nominations. Nominations for the 2008 State of City Community Awards are now being accepted. Nominations are due by Friday, August 1st at 5 p.m. This year the State of the City celebration will be held on Saturday, September 13th at 11 a.m. Mayor Spitaleri and the City Council will present awards to outstanding members of the Sunnyvale community including 1) Outstanding High School Senior, 2) Outstanding Business Person, 3) Outstanding Community Volunteer, 4) Outstanding Contribution to the Arts, 5) Outstanding Educator 6) Outstanding Environmental Achievement; and the last one is the Distinguished Resident of the Year. For additional information call the Communications Division at 730-7535 and I also believe it's on the City's website under StateoftheCity.inSunnyvale.com. That's one of the two messages or announcements. The other one is on Thursday, July 24th at 7 p.m. the City Council will hold a community workshop to present an update and the path forward on the City's environmental activities. The workshop will be held in the Council Chambers. That's right here. Topics will include updates from key departments on significant City activities over the past year including both policies and projects, as well as plans for the newly budgeted sustainability coordinator. Public Comment will also be taken. For more information, it's a slightly different website, green.insunnyvale.com. Or you can call the Office of the City Manager at 730-7480. That concludes the two there. I would like to take just one moment and thank two of my previous colleagues, Dave Simons and Laura Babcock having served a full eight years on the...on the Commission. And I was lucky enough to serve with both of them during some of that time.

Mayor Spitaleri: Thank you. And I don't have any additional cards for public comment.

CONSENT CALENDAR

Councilmember Whittum pulled Item 1.A.

City Manager Amy Chan pulled Item 1.I. on behalf of staff.

Mayor Spitaleri stated there was one public card requesting to pull Item 1.I.

Vice Mayor Hamilton moved and Councilmember Howe seconded to approve the Consent Calendar with the exception of Items 1.A and 1.I.

VOTE: 7-0

1.A. MOTION Approval of Revised Draft Minutes of June 10, 2008

Councilmember Whittum: Thanks. This is item 1.A the draft minutes of June 10th. I have a question of staff. So as you know there were some summary paragraphs which I questioned. And one of them staff kindly provided a transcript regarding comments on the budget I'd made. And I actually would like to include the comments rather than have the summary because I felt that there were some points there that were relevant, the deficit of \$5 million between revenues and expenditures and other comments made. So I guess my question is...do we, I didn't see...I have it and I know we received the transcript by email, but I don't see it up here on the dais. Do other councilmembers have the transcript that was made?

City Clerk Gail Borkowski: There should be hard copies of the Revised Draft Minutes on the dais.

Councilmember Whittum: Okay. Great. And I understand the staff recommended not to include my remarks, but I'm assuming there's nothing...the transcript is basically correct, so if we wish to include the transcript, actually that would be kind of normal to do when we question the summary we normally go with transcript.

City Clerk Borkowski: That does happen, but in this instance that was not staff's recommendation. We felt that the summarization adequately captured – because we do summary minutes as opposed to verbatim minutes - and it was a very long paragraph to capture...to actually summarize.

Councilmember Whittum: Thank you. Thank you very much. I have a motion at the appropriate time, Mr. Mayor.

Mayor Spitaleri: Vice Mayor Hamilton.

Vice Mayor Hamilton: I have a question. I remember receiving email about that. And I read it but I don't have it in front of me. And I'm trying to recall exactly where in the summary minutes that are on the dais in front of us, you're referring to - which section.

Councilmember Whittum: Okay. I actually printed out the emails. I was working from that. And the section is a paragraph within the budget, the minutes on the budget item. And I will find that for you. Here we go. It's page fifteen on the June 10th minutes. It's the second paragraph from the top of the page. That's the summary form. And then the verbatim form staff gave to us, it talks about park dedication fees. I'd requested some information that I didn't receive. The clerk indicates that we actually have this up here. I actually brought it because I brought the email, so I know I have it.

City Clerk Borkowski: Actually, Councilmember Whittum. The verbatim is not up there. What they have before them is the Revised Draft Minutes.

Councilmember Whittum: Okay.

City Clerk Borkowski: So that verbatim is not...was not sent to all councilmembers.

Councilmember Whittum: I had understood that it was emailed to all...

City Clerk Borkowski: Was it emailed to all members? Yes it was then.

Councilmember Whittum: Okay. So it was emailed to all. Great. Thank you.

Mayor Spitaleri: Do you want to make a motion.

Councilmember Whittum: You might want to open the public...do you want a public...

Mayor Spitaleri: I'll go ahead and open it to the public hearing. Anyone want to speak on that item? I don't have any cards on that issue.

Councilmember Whittum: Okay.

Mayor Spitaleri: I'll close public hearing.

Councilmember Whittum: My motion, if you please, would be to include what the staff prepared for verbatim minutes, specifically, on the comments on the budget. That's actually the one item I'm asking. So I would ask to substitute, per the verbatim minutes prepared by staff, for the summary paragraph. And I would just point out this takes no extra work since the transcript was already prepared.

Mayor Spitaleri: Is there a second? Dies for a lack of second. Councilmember Howe.

Councilmember Howe: I move the approval of the minutes as prepared and revised by staff in this document that says "Revised Draft Minutes of June 10, 2008 City Council Meeting."

Mayor Spitaleri: Councilmember Swegles.

Councilmember Swegles: Second.

Mayor Spitaleri: Any other...Councilmember Lee.

Councilmember Lee: Yes, just looking at the minutes on page nine. I believe there's a typo on the appointment votes of Nick Travis. It has five to zero. Vice Mayor Hamilton and Councilmember Whittum dissented. I think...[unintelligible]

Councilmember Howe: Well that can be changed to abstained unless one of the two that either dissented or abstained...

Councilmember Whittum: Abstained.

Councilmember Howe: objects.

City Clerk: Right.

Councilmember Howe: With that one change.

City Clerk Borkowski: Thank you for catching that Otto. I...

Councilmember Howe: Thank you.

Councilmember Lee: Thank you.

Mayor Spitaleri: Vice Mayor? There's a motion and second. Any further discussion?
Seeing none, please vote. Okay the next item is...

City Clerk Borkowski: Motion passes six to one (6-1) with Councilmember Whittum dissenting.

1.B. MOTION Approval of Information/Action Items – Council Directions to Staff

Fiscal Items

**1.C. RTC 08–218 List of Claims and Bills Approved for Payment by the City Manager –
Lists No. 407, 408 & 409**

Staff Recommendation: Council reviews the attached lists of bills.

**1.D. RESOLUTION Adoption of a Resolution Setting a Public Hearing to Establish
RTC 08–202 the Fiscal Year 2008/2009 Wastewater Charges for Properties
Located Outside the City**

Staff Recommendation: Council adopts the Resolution, to set a public hearing for July 22, 2008 to establish the Fiscal Year 2008/2009 wastewater charges for properties located outside the City.

Contracts

**1.E. RTC 08–211 Award of Request for Proposals No. F0706-98 for Engineering
Services Related to the Wolfe Road Caltrain Overcrossing
Rehabilitation Project**

Staff Recommendation:

- Council awards a contract in substantially the same form as the attached draft and in an amount of \$245,000 to HNTB Corporation for engineering services as related to the Wolfe Road Caltrain Overcrossing Rehabilitation Project; and
- Council approves a design contingency in the amount of \$36,750.

**1.F. RTC 08–213 Award of Bid No. F0705-97 for the Performing Arts Center and
Creative Arts Center HVAC Upgrade and Roof Replacement Project**

Staff Recommendation:

- Council awards a contract, in substantially the same form as the attached draft and in the amount of \$940,000 to IMR Contractor Corporation for the Performing Arts Center and Creative Arts Center HVAC upgrade and roof replacement; and
- Council approves a project contingency in the amount of \$141,000.

**1.G. RTC 08–212 Award of Bid No. F0705-93 for Ortega Well Rehabilitation and
Approval of Budget Modification No. 2**

Staff Recommendation:

- Council awards a contract, in substantially the same form as the attached draft and in the amount of \$156,237, to Layne Christensen Company for the rehabilitation of Ortega well;

- Council approves a project contingency in the amount of \$39,059; and
- Council approves Budget Modification No. 2.

1.H. RTC 08-219 Authorization to Extend Three (3) Existing Contracts for On-Call Plan Review and Inspection Services (F0706-102)

Staff Recommendation:

- Council authorizes the renewal of an existing contract with CSG Consultants Incorporated, in substantially the same form as the attached draft, with expenditures of 200,000 through July 26, 2009;
- Council authorizes the renewal of an existing contract with 4Leaf Incorporated, in substantially the same form as the attached draft, with expenditures of \$200,000 through July 10, 2009; and
- Council authorizes the renewal of an existing contract with Shums Coda Associates, in substantially the same form as the attached draft, with expenditures of \$200,000 through July 10, 2009.

1.I. RTC 08-224 Columbia Neighborhood Center Expansion Project – Memorandum of Understanding and Community Development Block Grant Funds (CDBG) Agreement Between the City of Sunnyvale and Sunnyvale School District

Mayor Spitaleri: Next item is 1.I. Staff.

Angela Chan: Good evening, Mister Mayor and City Councilmembers. My name is Angela Chan, Youth and Family Resources Manager. Staff pulled item from Consent Calendar 1.I. Columbia Neighborhood Center Expansion Project to include the legal description of the property, as well as the specific parcel number, which was provided by the Sunnyvale School District past the deadline for the RTC submission. You'll find the additional information on your dais.

Mayor Spitaleri: Any questions of staff?

Councilmember Whittum: If I could?

Mayor Spitaleri: Councilmember Whittum.

Councilmember Whittum: Oh, sorry. Thanks. Since you pulled it I wasn't going to pull it to ask. But, on page four of twenty-six it mentions funds shall be paid by the City under this agreement for eligible expenses incurred during the construction period and that period began November 8, 2006. And I just noticed that and I was curious. That seemed curious to me. And I just wondered if you could talk about that. So we're going to have some of our CDBG funds programmed to cover...How does that work? We're going to paying for stuff that already started in the last year or more it sounds like. Perhaps that's a naïve question. I saw the date and I was wondering what that meant.

Manager Angela Chan: CDBG funds were allocated for the fiscal year 06/07. Some of the school district has started with schematic drawings and meeting with architects, so those are some of those initial costs that will be split between the two parties.

Councilmember Whittum: Okay. So we'd be kind of, as a partner, we'd be reimbursing them for some costs they already incurred toward this project?

Manager Angela Chan: Correct.

Councilmember Whittum: Okay, thanks.

Mayor Spitaleri: Councilmember Howe.

Councilmember Howe: Yeah. Just to make sure that I fully understand. Here's a whole set of papers that came on the dais. And in your opinion, the only change was the assessor's parcel number and the legal description from the original report, is that correct?

Manager Angela Chan: That is correct.

Councilmember Howe: Thank you very much.

Mayor Spitaleri: Any other questions. Open up the public hearing. Anyone want to speak on this item? No cards. I'll go ahead and close the public hearing. Councilmember Howe.

Councilmember Howe: I move the staff's recommendation.

Mayor Spitaleri: Councilmember Lee.

Councilmember Lee: Second.

Mayor Spitaleri: Second. Any further discussion, none. Please vote.

City Clerk Borkowski: Motion passes seven zero (7-0).

Other Items

- 1.J. RESOLUTION Adoption of a Resolution Vacating a 10-foot Wide Public Utility
RTC 08-204 Easement at 974 East Arques Avenue**

Staff Recommendation: Council adopts the Resolution vacating the 10-foot wide Public Utility Easement at 974 East Arques Avenue and authorizes the City Clerk to cause a certified copy of the Resolution to be recorded with the county recorder's office.

- 1.K. RTC 08-208 Appointment to the Santa Clara Valley Transportation Authority
(VTA) Bicycle and Pedestrian Advisory Committee (BPAC)**

Staff Recommendation: Council appoints David Simons to serve a two year term on the VTA BPAC.

- 1.L. ORDINANCE Adoption of Ordinance No. 2873-08 Adding Chapter 5.48 (State
No. 2873-08 Video Franchises) to Title 5 (Business Licenses and Regulations)
of the Sunnyvale Municipal Code Relating to Regulations for the
Provision of Video Service by State Franchise Holders**

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

None.

PUBLIC COMMENTS

Mayor Spitaleri: Now is the time for public comment. I have a few cards here. First one is Chris Wilder

Chris Wilder: Good evening everyone. Thank you. My name is Chris Wilder and I'm here tonight to provide some information for you all on Measure A. Measure A has been placed on the November ballot by the County of Santa Clara. And Measure A, if passed would address a very, very important need in this community. And that is the seismic safety of Valley Medical Center. Valley Medical Center, as I think you all know, is the largest hospital in Silicon Valley. We are the public hospital for the County of Santa Clara and we provide care for one in four residents who live in the County. Last year we provided care for more than ninety seven hundred residents of the City of Sunnyvale and those numbers are going up every year. The problem that Valley Medical Center faces is that the state of California has a seismic mandate for all hospitals in the state, that they become seismically safe by 2013 to withstand and 8.0 earthquake and more than half of Valley Medical Center's beds are in buildings that are not seismically compliant. This is a problem facing many hospitals in our community. But Valley Medical Center, of course, being the County hospital, doesn't have any funding to deal with this. In fact, this is the largest unfunded mandate every handed down by the state of California. And so Measure A was drafted and placed on the ballot and if passed by two thirds of the voters of Santa Clara County this November, would provide eight hundred forty million dollars to address this problem. If this measure doesn't pass, what we face is potentially disastrous. Valley Medical Center, if faced with a loss of more than half of its beds, would not be able to operate its level one trauma center or its burn center. Many of you know that there only two top level trauma centers in the state of California, excuse me, in the County of Santa Clara. One being at Stanford and the other being at VMC. A lot of folks have the misconception that VMC is the hospital for the poor and the uninsured. The safety net if you will. And while VMC is that, it also is a hospital that provides the top level burn care, spinal cord injury, brain injury and many other specialty centers for folks of all economic strata. And if faced with the loss of more than half of its beds and the loss of its trauma center, burn center, and other specialty centers, we would also be losing two hundred seventy two beds in a community that already has fewer hospital beds in it per capita than any other metropolitan area in this country. If Measure A does pass, what we will see is the main...the maintaining of the safety net institution for this county for a...for a...for public health. In fact, Dr. Marty Fenstersheib, has called this the number one public health crisis facing our community. So there's a lot of education going on right now. We've already seen some information in the Mercury News. My hope is that the City of Sunnyvale will endorse Measure A, will help advocate and educate the voters of this community and others to make sure that folks realize how important Measure A is to pass. I have some information to hand to the Clerk if it pleases the council that I can leave with you.

Mayor Spitaleri: Thank you. Thank you for coming. See [unintelligible] to the clerk. We do have couple of questions. Councilmember Swegles.

Councilmember Swegles: Yeah Chris. You present a very interesting argument in regards to why we should support this. We do have...I did understand you to say how many residents of Sunnyvale have used your facility?

Chris Wilder: More than ninety-seven hundred residents of Sunnyvale received care at VMC last year. That number is up from the previous year and we have every reason to believe the number will be up again this year. In fact, the numbers of residents receiving care at VMC have gone up forty-five percent in the last five years.

Councilmember Swegles: Now when you're serving this number, do you ask for their insurance when they come in?

Chris Wilder: We don't. Valley Medical Center is the County, the public hospital. We provide care to everyone regardless of ability to pay. And in fact, the nurses who see our patients are proud of the fact that they never know whether or not our patients are well insured or homeless and have no insurance. We provide the same quality level of care to everyone.

Councilmember Swegles: So you're asking...this is on the November Ballot?

Chris Wilder: That's right.

Councilmember Swegles: And if we were to take the endorsement or do the endorsement, how soon would you need something of that type?

Chris Wilder: Well, as soon as possible. My hope is that this may not be a controversial issue, but the more support we have from the cities in Santa Clara County, the more likely we are to get the word out to voters. So the sooner your endorsement could be ratified the better, as far we're concerned.

Councilmember Swegles: Okay, thank you. When you're ready, I'd like to address that.

Mayor Spitaleri: Vice Mayor Hamilton.

Vice Mayor Hamilton: Yeah, I have a question of exactly who are the voters that are going to be voting on Measure A?

Chris Wilder: Measure A will be a County-wide ballot measure so all voters in the County of Santa Clara. The issue is that we need two-thirds to approve this before it passes. This is unlike the Measure A of two years ago, which was a more general county assessment. This is specific to Valley Medical Center. It is a general obligation bond which means it's specific to construction of new hospital buildings. And because of that it needs two-thirds of the voters. Because the electorate is likely to be larger than we've ever seen before, there's a lot of education that needs to be done.

Vice Mayor Hamilton: I seem to remember voting a few years ago for another hospital bond, because I live in a public hospital district. So, correct me if I'm wrong, but essentially there will be voters out there who are basically being asked to pay for two separate hospitals, is that correct?

Chris Wilder: Well it depends on where you live. Certainly there was recently a bond for, I know, El Camino hospital, if that's the one you're referring to.

Vice Mayor Hamilton: That's the one I'm referring to.

Chris Wilder: Which was, of course, very important to do. I think what's important to remember is that Valley Medical Center serves the entire County and in fact is the only one that takes everyone regardless of ability to pay, as I mentioned. We don't turn folks away, regardless of whether they're on MediCal, completely un-sponsored and so for a growing number of residents of Sunnyvale and the rest of our cities, VMC truly is the only place to go. And regardless of whether you're insured, if you're in, for example, god forbid, a bad traffic accident, VMC provides the only level one trauma care, other than Stanford University in this County.

Vice Mayor Hamilton: Okay.

Mayor Spitaleri: Thank you for your information. Next speaker we have is Laura Hughes.

Laura Hughes: You may know that the Heritage Park Museum is going to be opening in September and they have this beautiful new facility. And a group of us have gotten together and organized a raffle for a dinner for six inside the new museum. It will be beautiful, elegant setting. You win and you invite five of your friends. And I have tickets. The raffle, Sunnyvale Toyota has sponsored this and Cinnabar Winery has donated the wines. So it's going to be catered by Cosmopolitan Catering. So if anybody wants tickets, let me know. And if you'd like more information, that's AnneStewart@sunnyvaletoyota.com. Anne with an "e". Thanks.

Vice Mayor Hamilton: And what is the cost per ticket?

Laura Hughes: Twenty dollars.

Vice Mayor Hamilton: And the raffle is being held on?

Laura Hughes: September 27th, the opening day, right at 3:45 I believe.

Councilmember Swegles: And how many tickets are you selling totally?

Laura Hughes: We have a thousand tickets. Would you like them all? I'll package them up for you.

Mayor Spitaleri: Next speaker is Eric Huang.

Eric Huang: Greetings, Mr. Mayor, Sunnyvale Council. In mainland China there is only one television station that broadcast accurate and unbiased and uncensored information for all Chinese audiences, unlike the CCTV. This station is called NTDTV and is headquartered in New York. The news that the Chinese communist government desperately tries to cover up, like the SARS epidemics, the shabby workmanship of the school buildings that collapsed a mess at the Sichuan earthquake, and also most recently a hundred thousand people riot in Grido Province. They smash the police building because the police was harboring rape and murder victims because they have relationship with the public officials. News is broadcast over satellite at WO5 which is owned and operated by the French company, Eutelset. The Chinese regime hated NTDTV so much that it tried to bribe Eutelset with new creative contracts. Thanks to the intervention of the U.S. Congress and the European Union, these efforts was exposed and stopped back in 2005. On June 16, 2008, NTDTV's signal went dark over China again. This time Eutelset claimed that their satellite transponder had some power supply issues and three weeks passed and they just kept playing this delay game. Renown NGO reporters without borders recently, just a few days ago, announced that they uncovered that this whole thing is a hoax set up by Eutelset. In a recorded conversation they also posted on the web site that their reporter posed as a Chinese official, talked with Eutelset representative in Beijing and that representative admitted that it was Eutelset's CEO, Mr. Barretta, in France, who decided to stop NTDTV's signal. Because we got repeated complaints and reminders from the Chinese government. The representative admitted that Eutelset worries only if U.S. Congress and government intervene again. So I'm asking all my fellow Sunnyvale residents, please call our congressional representatives, Anna Eshoo and our two California senators ask them to speak out, to tell the French companies that they must respect the principles of equality of access, pluralism and non-discrimination enshrined in Article 3 of Convention governing the operations of Satellite companies. Please call, your voice with help. Thank you very much.

Mayor Spitaleri: Thank you. Next speaker is Maria Pan.

Maria Pan: Good evening Councilmembers. Good evening City of Sunnyvale. I'm here to speak about homeless housing. And I understand that there's going to be a new homeless housing project built in Sunnyvale and I would just like to recommend that the project be developed by a faith-based organization. I believe that a faith-based have more compassion for the homeless, for individuals with special needs. So I hope that the councilmembers will consider giving a faith-based organization the opportunity to develop homeless housing in Sunnyvale. Thank you.

Mayor Spitaleri: Thank you. Next person is Pat Meyering.

Patrick Meyering: Good evening. I'm Patrick Meyering. A couple of reports the City recently produced contain some mistakes of promises made by this city council in June 2007 to support The Blind Center. That center applied for funds along with other non-profit agencies and their purpose was to serve very low income blind Sunnyvale seniors. The center competed against other non-profits for a limited amount of city money. And the Blind Center indicated the types of services they provide. You decide that Sunnyvale would provide forty-five thousand dollars and that was a part of what the Blind Center was requesting. Regulations require that a written project agreement be prepared and the City took four months to prepare that document. The Blind Center was unable to sign that document because it misstated the services the Blind Center was going to provide. The Blind Center provides rehabilitation. It helps blind people learn to live independently and remain active. The document that Sunnyvale produced indicated that the Blind Center was going to provide residential facilities for clients to stay overnight. The Blind Center has never provided residential facilities. It has never proposed to. This mistake by the City of Sunnyvale blocked the forty-five thousand dollars from being received by the Blind Center. The Center asked that this mistake be corrected. And the City claims in their May 23rd 2008 report that this amounts to a request for new money. In the alternative, the City suggests that blind Sunnyvale residents can obtain rehabilitation at three other identified centers, one in Sunnyvale, one in Palo Alto and one in San Pablo. The City's mistaken on both of these counts. It's not a request for new money and the Blind Center already went through the competitive process one year ago. You stated at that time that Sunnyvale was going to provide forty-five thousand dollars to the Blind Center. Forty-five thousand dollars has not been provided due to the City's mistake. On the second count, the three mentioned cities do not provide a realistic alternative to Sunnyvale's blind residents. Those blind residents came to the council meeting three months ago and explained that that Sunnyvale organization does not do rehabilitation. It's an employment referral organization and that specific agency refers blind Sunnyvale residents to the Blind Center for rehabilitation. The Palo Alto agency focuses on San Mateo County. The San Pablo agency is fifty-five miles away. That's one hundred ten miles round trip. So Sunnyvale's solution to Sunnyvale's mistake is to tell blind Sunnyvale residents to take nine different bus connections to go fifty-five miles to get north of Berkeley, when their rehabilitation is available locally at the Blind Center. So the City broke its promise to Sunnyvale's blind residents and to the Blind Center and action is needed to correct that. Thank you.

Mayor Spitaleri: Thank you. Next person is Chung Lim.

Chung Lim: Good evening, City Councilmembers and all of the others of Sunnyvale citizens. My name is Chung Lim. I'm standing here to reiterate what Eric Huang just went over. Eutelsat 2005 already tried to break the contract with us. But this time June 16 of this year, again they say because of a technical reason they cannot just televise. This is so uncensored and truthful news to mainland China. And it proven to be a total lie because the reporters without borders which is in European reporters. They have sixty-one pages of report and they tell a lie that the CEO, Mr.

Barretta, he actually ordered him to cut off this deal. So the people in mainland China, now they don't have any access to real news. Especially this year they have the summer Olympics so human rights abuse in that country beyond our imagination. They have all this traumas, not only snow storms and train derailment, earthquakes and flood and keeps going on. And who knows what is other things coming in. But violent this police, riot against police, all these things the mainland China people they may not know any of these things. The factual truthfulness. It's very, very important to have NDTV being broadcast in mainland China. So what I'm trying to say here is, please help us to call a couple of official at federal level so they have to broadcast NDTV as soon as possible. And we need your help. And thank you for listening.

Mayor Spitaleri: Thank you. I have a final card and that will be the close of public comment. Arthur Schwartz.

Arthur Schwartz: Members of the Council and Mayor, I'll be very brief. I sent an email supporting the idea of abandoning the sign project on Fremont and Wolfe road and use the money for other purposes. But I find out that now I'm not familiar fully with the separation of operating and capital budgets. I just want to add that I still think that the idea of the lighted sign at that corner is a bad idea from the safety standpoint. The money could be used for other capital purposes in the future. But I don't think that sign should go up from the safety standpoint. And I would urge that some money be found to continue the liquidambar tree removal. I don't know where that would come from right now, but I think it's important that that project go ahead also. But I want to remove the linkage between the two. Thank you.

Mayor Spitaleri: Thank you. And that closes our public comment session.

PUBLIC HEARINGS/GENERAL BUSINESS

2. RTC 08-180 Reconsideration of Vote on Study Issues Process (Study Issue) from June 24, 2008

City Attorney David Kahn: Thank you Mayor Spitaleri. I sent an email to the Council earlier this afternoon. I'm not sure if everyone had a chance to review that or not. The issue is that Vice Mayor Hamilton is proposing a motion for reconsideration on the RTC on the Study Issue Process. In preparing for that agenda item this afternoon, I looked at the minutes from the prior meeting in which that RTC was considered. And that was the meeting of June 24th. And in reviewing those minutes, determined that in fact there had been a previous motion to reconsider. That was a motion made by Councilmember Moylan, seconded by Councilmember Howe and then there was action on the question and approval with that motion for reconsideration on June 24th. Generally, Parliamentary Procedure allows for one motion to reconsider, so the second motion to reconsider on this meeting's agenda would not be in order. The appropriate method, if Council wished to look at that issue again, would be to agendize, put on the agenda a motion rescind the prior action. And if that motion to rescind is successful, by a majority vote, then the Study Issue Process could be put on the agenda for a subsequent meeting. The motion to rescind, if put on the agenda, would not be for tonight's meeting but would be for a future meeting.

Mayor Spitaleri: Thank you. Any questions of staff. I do have two cards so I'll go ahead and open the public hearing. The first card is Mei-Ling Stefan.

Mei-Ling Stefan: Good evening. My name is Mei-Ling Stefan. I would like to thank the Mayor and the Vice Mayor for the motion to reconsider the vote on the Study Issue Process.

I'm very concerned about the vote requiring three councilmembers to sponsor a study issue. Such a change would make it very difficult for citizens to bring up issues for city-wide discussions through our elected leaders. Thank you.

Mayor Spitaleri: Next card I have is Harriet Rowe.

Harriet Rowe: Harriet Rowe, citizen. I echo Mei-Ling's comments. I was very, very concerned when you required three councilmembers. I know when I was concerned about community rooms, it took two councilmembers to get it as a study issue. And it ranked very highly when it finally got to your consideration. Maybe it wouldn't have happened if we had had the requirement for three. So I hope when you...hopefully you will go through the rescission process and that you will reconsider having two rather than three councilmembers. Thank you.

Mayor Spitaleri: Thank you. That's all the cards I had. I'm going to go ahead and close the public hearing. I would like to make a motion to rescind the previous action council and...nope, put it on the agenda. Make a motion to put it on the agenda for consideration to rescind.

Vice Mayor Hamilton: I'll second that motion.

Mayor Spitaleri: We have a second. Any further comments or questions? Councilmember Moylan.

Councilmember Moylan: Yeah, I'd kinda be curious as to what the purpose of the motion is. For example, the previous study issue process required only one councilmember to sponsor a study issue. Staff came to us with a recommendation to require four councilmembers to sponsor one. So with the absence of the mayor, we dickered back and forth between two and three and so is the request to reconsider the number of councilmembers it takes sponsor a study issue only, other aspects of what we passed that night? What is it exactly that we are hoping to achieve?

Mayor Spitaleri: Okay. Would you want me to answer that? Go ahead. Vice Mayor...I think Councilmember Swegles was first.

Vice Mayor Hamilton: I was going to answer Councilmember Moylan's question.

Councilmember Swegles: Actually, I'm dissenting anyway. So...

Mayor Spitaleri: Okay.

Councilmember Swegles: I think, I was just...we had where we needed three votes to put somebody on the committee that we have coming up. And I think we had twenty-seven applicants. And twenty-one of those twenty-seven received three votes. So I think the main factor we were looking at was we want to be very public about putting things on the agenda. We don't want to do back door stuff. I think the Vice Mayor mentioned if she wanted to get something or somebody wanted to get something on the agenda, and they talked to one other person and they turned them down, they could only talk to one other person before they violated the Brown Act. Well, that's why we do it in open, public meeting in regards to having three people do the process. So I think it is very apropos to have three because it forces us to do all our decisions in public.

Mayor Spitaleri: Vice Mayor Hamilton.

Vice Mayor Hamilton: The motion for reconsideration was just for what is mentioned here. There was a second motion that dealt with a whole section of other things which is not touched.

Councilmember Moylan: So the motion is to...

Vice Mayor Hamilton: The motion is this one particular...

Councilmember Moylan: Rescind our previous action and then reconsider how many councilmembers it takes to sponsor a study issue? Is that...

Vice Mayor Hamilton: Well, there were two parts to the motion. Right, there was the study issue sponsorship and then there was the ranking and the choice and all that other stuff. That's the second half that is untouched. That was a separate motion. I'm not asking for reconsideration of that.

Councilmember Moylan: So it's just the number of councilmembers?

Vice Mayor Hamilton. Just the number of councilmembers. And you know, frankly, the two constituents who came up here tonight, echoed things that I heard from other people. And I'm kind of concerned, frankly, that by requiring three people up front, you cut off things. I mean the reason we have the study issue process is to rank them all in one big pool against each other. Something that's very important in February might not be important the following January. And something that's maybe not so important by July picks up a lot of steam by February. So my concern is, is by having three it's a really high bar. We may be cutting off stuff that shouldn't be cut off.

Councilmember Moylan: Well in this case, you're of course preaching to the converted. I made the motion to require only two. As you may recall it failed on a 3 to 3 vote. But now I have a parliamentary question. Does this motion to rescind have to be made by someone who was in the majority the previous time or it could be made by anybody, even the mayor?

City Attorney Kahn: Unlike a motion to reconsider, if there is a motion to rescind, which would set aside the entire action, that can be made by anybody, subject of course to majority approval of the council.

Councilmember Moylan: Well in that case, I will support your motion because like the members of the public, and like you, I prefer two. I think the better analogy is not selection of members for the community members for the city manager search, but I think it's more like seconding a motion in parliamentary procedure. You save a lot of time if it takes at least two people to say it should be discussed, but to say it requires three or four or five people all that does is shrink the number of issues you're allowed to deal with. So I went for three because I saw the trend. It looked like we were going for four. We ended up getting three. But if there's a chance to go back to two, I would support that and therefore I'll vote for your motion.

Councilmember Whittum: Oh, thanks. I just want to speak in support of the motion. And I'm still holding out hope for one. But in view of how the vote turned out, I would be much happier settling for two than if that's the choice two versus three. So I think the change you make is a drastic change. And I'm not sure that it doesn't break the study issue process that

has been used for so long. But if the best we can do is get it down to two, I would happily support that for sure. Thanks.

Mayor Spitaleri: Well, if I may. We're just voting tonight whether to place it on the agenda to rescind it at the next meeting. My concern, as when I came back and read the reports was, I really am concerned about blocking any request from the public from the Council to look at a study issue. Four I would have definitely absolutely been opposed to because that would just put up a wall against any input from our community. I'm in favor of one, but I mean, we have a good discussion when we get there next time if this vote passes. So that's all I had to say. If there's no further discussion, please vote on the motion.

City Clerk Borkowski: Motion passes five to two (5-2) with Councilmembers Howe and Swegles dissenting.

Mayor Spitaleri: If I may, on that particular issue, can we make sure that that is scheduled on a council meeting when all councilmembers are here. Because I know I will be missing a future council meeting and I don't want to just wind up doing with three to three, if that's possible.

City Manager Chan: Mr. Mayor, we can certainly put it on the next council meeting agenda which is July 22nd. And any members not planning to be there? Everyone will be there, then it's on next weeks', with your approval, of course.

Mayor Spitaleri: Thank you.

3. **RTC 08-203 Request by applicant for Continuance of 2008-0238 – Dale Meyer Associates [Applicant] Nikoley Richard L and Beatrice F [Owner]: Application for related proposals for a property located at 127 W. California Avenue (near N. Murphy Avenue) in an R-3 (Medium Density Residential) Zoning District (APN: 204-043-007). Rezone from R-3 (Medium Density Residential) to R-3/PD (Medium Density Residential/Planned Development) Zoning District, Special Development Permit to allow 5 residential townhomes, Tentative Map to subdivide one lot into five lots and one common lot.**

Mayor Spitaleri: The next item before is RTC 08-203. No staff report. Okay. Moving right along.

Hanson Hom: Sorry I apologize. Phasing out. This item is a request for continuance at the request of the applicant for redesign related to a Planning Commission action. So the recommendation is to continue the item indefinitely.

Mayor Spitaleri: Thank you. Councilmember Swegles.

Councilmember Swegles: No, after you open the public hearing, I'll make a motion.

Mayor Spitaleri: I'll go ahead and open the public hearing. I do not have any cards on this item. Seeing none, I'll go ahead and close the public hearing.

Councilmember Swegles: I'll move the staff recommendation to continue this item indefinitely.

Councilmember Moylan: Second.

Mayor Spitaleri: Any further questions, seeing none, please vote. Okay.

City Clerk Borkowski: Motion passes, seven zero (7-0).

4. **RTC 08-223 2008-0148 – Goodwill Industries [Applicant] Dicks Lakewood Corporation [Owner]: Application for related proposals located at 1119 Lawrence Avenue (near Lakehaven Drive) in a C-1/PD (Neighborhood Business/Planned Development) Zoning District (APN: 110-23-110)**
- **Rezone to consider an amendment to Title 19 of the Sunnyvale Municipal Code to allow donation trailers in the C-1 Zoning District;**
 - **Special Development Permit to allow a donation trailer to be located onsite.**

Trudi Ryan, Planning Officer presented the staff report.

Mayor Spitaleri: Thank you. Vice Mayor Hamilton.

Vice Mayor Hamilton: Yeah. On Attachment J, Commercial Sites and Donation Trailers, there's one star on this map. Am I to take that to mean we actually only have one approved legal trailer.

Trudi Ryan: There's one legal facility, outdoor facility in the community. That is correct.

Vice Mayor Hamilton: Okay.

Trudi Ryan: There are other donation locations that are within a building and they are not subject to the requirement for that...[inaudible]

Vice Mayor Hamilton: Okay. The other question I had, it that on Attachment F, where there's the staff recommended location and then you can sort of see a light outline of where the Planning Commission actually recommended it. It's in a separate attachment. Was there any other location discussed? Because it seems to me that if you wanted to address the staff issue but you also want to keep it away from the neighbors, there's that whole stretch along Lawrence.

Trudi Ryan: Well, staff did consider that. We felt that if you had it in essentially the center of that, that would be your view of the shopping center. And so that it was really too prominent of a view and would conflict with some of the shopping center's desire for visibility for their tenants. So, although we looked at that, we didn't seriously consider that as an option.

Vice Mayor Hamilton: Okay. Thank you.

Mayor Spitaleri: Councilmember Whittum.

Councilmember Whittum: Thanks. So I understand that staff has recommended one, two and five. And I wanted to ask would it be understandable if we were...I want to ask you about a possible modification and if that would be something one could implement. If one

decided that there should be a certain distance between...a minimum distance from a trailer to residences or trailer to another trailer, and I'm thinking of a couple hundred feet or something like that. Is that something one could add to this? Would that make sense?

Trudi Ryan: Certainly Council has that discretion. If you have a particular distance in mind, we can comment on what the effects might be.

Councilmember Whittum: Related question. I was wondering what the distance of the...at the existing site behind the service station. I know there are homes over here, and I didn't mean to spring it on you, but one of the questions I'm wondering is what the actual distance at the present site...and that may come up later. But, okay. So, fine. I'm not sure what the right distance is. But it sounds like if we picked one, we could implement that if we wished.

Trudi Ryan: Yes, you could.

Councilmember Whittum: 200 feet or something like that.

Trudy Ryan: Well not knowing every single site, but thinking of sites, for example, along El Camino Real, which may be less in depth, but might be long sites. There might be an opportunity to locate it there and still have a building between it. So it might not technically meet that two hundred foot or probably one hundred foot, it might not technically meet that so...

Councilmember Whittum: Okay,

Trudi Ryan: You have an intended consequence.

Councilmember Whittum: Unintended consequence.

Trudi Ryan: Because we haven't actually looked at those kind of distances.

Councilmember Whittum: Right. Okay, I understand. Cause it might...just putting a distance might not meet...after all the intent of such a thing would be to separate incompatible uses and make sure traffic and noise don't impinge on the residences and also other activity at night. And you might say, well, if you say two hundred feet that's fine, but if you have a big masonry wall, maybe you don't need...

Trudi Ryan: It might depend on exactly, those exact circumstances. There are, unfortunately, some other facilities that staff is following up on that have...some have had complaints and some haven't. And in both cases two that I can think of are adjacent to residential. So one had complaints and the other didn't.

Councilmember Whittum: Okay. And then, so finally. If one did pick a distance, there's still the opportunity, I suppose, somewhere in the process for a future applicant to apply for a variance based on the presence of something that blocks noise and traffic noise and so on.

Trudi Ryan: That would be possible.

Councilmember Whittum: Okay. Thank you.

Mayor Spitaleri: Any other questions of staff? I'll go ahead and open the public hearing. I don't have any cards at this time.

Male Speaker: I'm sorry Mayor I neglected to fill out a card.

Mayor Spitaleri: Okay, would you give your name for the record and then fill out a card after you're done?

Ryan Gleason: I will. My name is Ryan Gleason and I'm the Director of Logistics and Plant Operations for Goodwill. I'm here on behalf of my colleague, Barbara Alvaranga, who couldn't be here. She's out of the country. I guess she's been here at the prior hearings. I want to represent Goodwill in our request to the Council to allow our trailer to remain at 1119 Lawrence. There are a couple of considerations I read in this. Having the trailer subject to consideration for the Director of Community Development, meaning our certain look of our trailer and the signage that is currently on our trailers be subject to change if it is allowed to remain at that site, would be overly burdensome to our company. We currently have ninety trailers and we have gone through an overhaul and an image and a face lift of all our trailers. It's been very costly. And what I read in this, is that we could... if we're allowed to stay...we could be subject to have to change that for this site. And I just wanted to request from the Council that that be amended be amended with the Planning Commission's recommendations. That's about all I have.

Mayor Spitaleri: Okay. Thank you. Please fill out a card when you can. Okay. We do have a question. Excuse me, Councilmember Whittum. We do have a question for you.

Councilmember Whittum: Okay. Thank you. I just want to get it straight. So, if...I don't know if you have the same packet we do, but just to be sure I understood what you're suggesting, is it the external appearance of the trailer or is it other outfittings? What are the particular things...it's the appearance of the trailer that you're concerned about. Not trying to make it special for this location, on account of you have other such trailers and they all have the same...

Ryan Gleason: Absolutely right. Considering I'm actually, in my division handles the logistics of all the trailers at our twenty-six other locations and then our thirteen stores. And these changes are...these trailers are interchangeable. And on a... in a season like we have right now, which is very heavy with donations, this trailer could be changed three to four times a day. I'm sorry, a week. Right now. And for us to customize a group of trailers for specific site would be they can't be used at any other site. And that would minimize the usefulness of those trailers.

Councilmember Whittum: Thanks a lot. Okay.

Mayor Spitaleri: Vice Mayor Hamilton. Got another question for you.

Vice Mayor Hamilton: I have a question of staff. And then I wanted...

Mayor Spitaleri: One for staff and one for you, so please hang on.

Vice Mayor Hamilton: So, Attachment B, two of three, there's the signage clause, 5.3., 5.B.3, they're talking about contact information for the operation of trailer, contact information for the city, et cetera, et cetera. Is that what is intended to be approved by the Director of Community Development under the trailer external approval condition?

Unknown speaker: Where...

Trudi Ryan: There is another provision. And I'm not seeing it at this moment.

Unknown speaker: Oh, thank you so much.

Trudi Ryan: Two. Well, 2.A. both the, both of those conditions talk about the appearance of the site. So that the colors, the materials of the trailer and the, particularly number one, the materials should be solid and shall match or blend with the trailer color. For the skirting, that there's fabric skirting, if it needs to be replaced. There's all those conditions that talk about the Director of Community Development having approval authority for the design details of the facility.

Vice Mayor Hamilton: Okay. So that's what's intended to be covered by that approval.

Trudi Ryan: I think that's what the speaker is referring to.

Vice Mayor Hamilton: And then, the signage stuff on the back of the trailer, is that...it's not explicitly written here...is it assumed then that would be somehow permanently attached to the trailer, painted on it or some other way so it's not removable?

Trudi Ryan: The signage to discourage after-hour dumping and to have contact that needs to be permanent. Permanent in the respect that oftentimes these trailers are moved in and out. So each time a new trailer is moved in, it needs to comply with the conditions. So that if they choose to have a magnetic sign, for example...

Vice Mayor Hamilton: Okay.

Trudi Ryan: they'd have to use that sign that has been approved with that information.

Vice Mayor Hamilton: Okay. And the question I have for you is...it appears to me that the types of things they were looking for in the review are not necessarily the signage and the logo and what-not that you were referring to,

Ryan Gleason: Umm huh..

Vice Mayor Hamilton: but things that would go around the base of the trailer, that kind of thing. Is that still...I mean I assume that you have to have that for other sites as well. Is that still such an onerous provision?

Ryan Gleason: Actually, not. Not at any of our sites. We don't have any skirting whether fabric or solid rigid at any of our sites currently. So this is something that would have to be developed.

Vice Mayor Hamilton: So how do you deal with after-hours dumping at the other sites?

Ryan Gleason: We have signage on the trailers. And in fact we're redesigning the signage at all of our trailers, because Barbara, my colleague is working with the County of Santa Clara to get assistance with some monitoring at certain sites. I have a driver who works the graveyard shift that hits these sites in the middle of the night to pickup and discourage dumping. I also have...we have a shift in the morning that starts at 6 a.m. and these three

drivers hit all ADS sites, our donation sites to pick up trash before the cities wake up basically, try and hit as many sites as possible before 9 o'clock. And everything is gone before the city is moving around.

Vice Mayor Hamilton: Okay. So you're not required to have this kind of skirt or anything around the bottom of the trailer at any of your other facilities.

Ryan Gleason: No, not at all.

Vice Mayor Hamilton: Okay. Thank you.

Mayor Spitaleri: Excuse me. I have one. You said you do have signs on the trailers that say, do not dump, don't leave any...?

Ryan Gleason: We have no dumping signs on the trailers, we also have our ethics hotline number which is an automated number for employees questionable activity whether it's open or closed rummaging, people stealing, dumping. We have an eight hundred number on the sides of the trailers. And then I'm assuming the, I would have to check with staff to see if a specific...I'm assuming we would have to get approved if specific Sunnyvale ordinance code would have to be on the signage on the dumping sign on the back. And if so, then we would have to develop something where the signs could be switched at the trailers. Currently all our signs are fixed to the trailers. They're screwed on, they're permanent. So when we shut the doors the no dumping sign is there. Dumping is a huge problem in every city we're in. And so, if it does have to have specific verbiage for this city, we would have to develop something to where the sign could be removable for this site.

Mayor Spitaleri: Vice Mayor Hamilton.

Vice Mayor Hamilton: Need to mention one other thing I need to follow-up on. You said you were working with the County on monitoring systems. What form of monitoring system is that?

Ryan Gleason: Yeah, I can only talk generally about it. But Barbara is working with somebody from the County of Santa Clara. And they are going to assist us with monitoring our certain sites that we gave him...I think three or four that get heavy dumping. And he's going to see if he can...may work with enforcement...to see if they can catch these people in the middle of the night.

Vice Mayor Hamilton: So it's sort of a on-site enforcement thing, it's not like a video surveillance or that kind of thing?

Ryan Gleason: He...I believe he mentioned to Barbara that he was going to look into video surveillance.

Vice Mayor Hamilton: Okay.

Ryan Gleason: And right now, I wish I could speak more into it, I can't.

Vice Mayor Hamilton: Alright. Thank you.

Mayor Spitaleri: Any other questions? Seeing none. Thank you. Any other questions of staff? Council's pleasure? Councilmember Whittum.

Councilmember Whittum: Wanted to ask a little bit more for a little more detail on fabric skirting and the boxes with live plant materials. Is that something that is commonly used? Can you...evidently the boxes are going to be on wheels and they're going to wheel them up and then change trailers. That's the concept?

Trudi Ryan: We do have, as Councilmember...Vice Mayor Hamilton pointed out, one site that is permitted which is over where the Big 5 and the Traders Joes are located. So there is a donation trailer there. And they do have planter boxes, which actually have a piece of wood that extend up behind them so when they push it up near the trailer it forms some skirting. So it's not...the skirting in that instance...

Councilmember Whittum: Right.

Trudi Ryan: doesn't appear to be physically attached to the trailer. The fabric skirting was put there as an option not a requirement. They can find other ways to...

Councilmember Whittum: Right.

Trudi Ryan: to seal off the area underneath the trailer.

Councilmember Whittum: Thank you.

Mayor Spitaleri: Councilmember Swegles.

Councilmember Swegles: Someone that's very familiar with skirting. It's not home 'til you take the wheels off. It's not that difficult to put skirting on, especially if you've given them the ability to do it with a fabric. It would be a very easy process. I think the problem might be is trying to match the, if they were to use fabric, trying to match the color of their trailer for the, I have a hard time saying trailer with...

Trudi Ryan: In this case it's okay.

Councilmember Swegles: the color of the skirting. But this is a trailer. So I think they might want to consider because a more permanent or the a sheet plywood that you could just put up against it, similar to what they're doing already where you said the Big 5 and Trader Joe's is located. Because that makes a lot of sense. It does make it a little bit more appealing and they can't stuff things underneath in the evening. So I think that's an actual good thing to do.

Mayor Spitaleri: Councilmember Howe.

Councilmember Howe: Yeah, further question of staff, if not I'll take a stab at a motion here.

Mayor Spitaleri: Any other questions of staff?

Councilmember Howe: Yeah, staff is asking for one, two and five. I think one is just fine, adopt the negative declaration. But I think some of the requirements that we're putting on these folks are a little onerous. You know, it's hard to make a silk purse out of a sow's ear. This thing just isn't going to necessarily going to look all that good. I think that the Director of Community Development should be allowed to approve the trailers and not

unnecessarily withhold that. And so changing it to where nothing specific about the trailers, but the Director of Community Development would approve the trailers. If the other cities within this county are doing a fairly decent job and not complaining we ought to just go ahead on and approve these things. Also, so what it would be number two with those changes. Which is don't unnecessarily withhold the requirements and I know that that's clear as mud.

Trudi Ryan: I think...I think I'm understanding that you're suggestion it's a staff level review, a miscellaneous plan permit as opposed to a use permit that would go to public hearing.

Councilmember Howe: Yeah. And I'd be happy with that. And the stuff of let's try to work with them on the wording, so that there's standard wording. I mean, they have a vested interest here. And I know I'm going on without a second. So, basically it's one, three and five approve the special development permit/miscellaneous permit and if there's a second, I'll go on.

Mayor Spitaleri: Is there a second? Councilmember Swegles are you going to...

Councilmember Swegles: Second.

Mayor Spitaleri: Okay.

Councilmember Howe: To go on then...I appreciate that. Thank you. I don't want to make an onerous thing here, so that these folks can actually participate within the community. They provide a terrific service within our community. First off, picking up a lot of this stuff as has been previously testified. I think that Councilmember Whittum's idea of a certain space to the residential is a good idea. And so, instead of putting a number there, say that to staff, we don't want it to negatively impact immediate residential areas. So the Director would be allowed, under the approval process, to turn around and say, two hundred foot on this one, five hundred foot on this one or one hundred foot on this because of the closeness to a residential area. Clear as mud, Trudi?

Trudi Ryan: I understood. Thank you.

Councilmember Howe: Thank you.

Mayor Spitaleri: Vice Mayor Hamilton.

Vice Mayor Hamilton: I just want to make sure I understand a certain aspect of this. You mentioned earlier, specifically, the approval of the landscaping and the visual whatnot should be at the administrative level and not at the use permit level.

Councilmember Howe: At the administrative level, not unreasonably withheld.

Vice Mayor Hamilton: Okay.

Councilmember Howe: They shouldn't have to be required to repaint these trailers for the City of Sunnyvale.

Vice Mayor Hamilton: Yes, of course.

Councilmember Howe: They have a vested interest not having people dump, so having a sign that's generic throughout the County that everybody else is basically going along with, we oughta go along with too.

Vice Mayor Hamilton: Well, the question I have though, then is, and maybe this is a question for staff. Would they still need a use permit to go to the Planning Commission about whether or not they can even put the trailer there?

Councilmember Howe: I would prefer that it just be handled at the staff level and not at the Planning Commission level.

Vice Mayor Hamilton: So that's the intent of the motion?

Councilmember Howe: That would be the intent.

Vice Mayor Hamilton: Okay. Thank you.

Mayor Spitaleri: Councilmember Swegles.

Councilmember Swegles: Yeah. I was glad that you did include the skirting part, as well as the other things that the Planning Commission brought forward. I think that's very apropos. And I do agree also with the modifications. We want to make this a workable situation. They do provide a good service for the community. We thank them.

Mayor Spitaleri: Councilmember Moylan.

Councilmember Moylan: If I may Mr. Mayor. I do have a question of staff on this one. Don't we currently require the use permit in Planning Commission review for trailers in the other commercial districts, so wouldn't this make it a whole lot easier to put a trailer in a C-1 district and we'd have a higher level of standard for the C-2 and C-3?

Trudi Ryan: The way we have prepared an ordinance for your consideration, is it would require that all trailers be handled similarly.

Councilmember Moylan: Oh, great.

Trudi Ryan: So it's not just the C-1 that note is attached to all four of the commercial zoning districts.

Councilmember Moylan: Oh, excellent. So the motion as you understand it would not set up a difference between those zones?

Trudi Ryan: That's how I understand it, yes.

Councilmember Moylan: Great. Thanks.

Mayor Spitaleri: Councilmember Whittum.

Councilmember Whittum: Thanks, I had a question. But first just a point of order. Should the...there is an applicant in this case, and do they get a second chance to a...usually the applicant comes up twice, right? There's no applicant in this case?

Mayor Spitaleri: No.

Councilmember Whittum: Oh, okay. Alright. And then the second thing, I'm kind of concerned about...I know of one case that occurred recently that I heard about where a person was disturbed. I think in that case, it may have been a trailer placed there without permission. But I'm kind of concerned that we have a number of residential areas behind the commercial areas on El Camino and I sort of like the idea of having these permissions go through the Planning Commission. There are sensitivities there on account of the juxtaposition of residential and commercial. And so actually I kind of favored the staff recommendation. I liked having the Planning Commission in the loop and I'd like a way to make sure the residents know what's about to happen, and that they're not surprised. You know, they find out five o'clock in the morning when there's a lot of noise going on and they're wondering what happened. So, actually I think I favor the staff recommendation in this case. Thanks.

Mayor Spitaleri: City Manager, did you want to comment.

City Manager Chan: Mr. Mayor. I apologize. I think Councilmember Whittum was asking whether the process would allow the applicant to speak, have another opportunity before the close of public hearing to speak and he's correct on that. And if the Mayor would want to reopen the public hearing to see if the applicant want to have final comments, that would be appropriate, but certainly is at your discretion. Thank you Mr. Mayor.

Mayor Spitaleri: I'll go ahead and acknowledge the Vice Mayor and Councilmember Howe, then I'll go ahead and ask the applicant to come back up. Vice Mayor.

Vice Mayor Hamilton: I was pondering after my last question. Pondering what...how I would vote on this and I think I have to agree with Councilmember Whittum. I'm a little concerned at leaving it as an approval on the administrative level is that although those are public hearings, they're not terribly well noticed and people...and they're during the day and people may not be able to attend. And I like the idea of having a broader public input opportunity. So I think I'm also going to go with the staff recommendation as well.

Mayor Spitaleri: Alright. Councilmember Howe.

Councilmember Howe: Sure. If it's acceptable to the second, I think that was you Ron. Maybe we should give this a try for a period of time and review it after...anytime after January of 2010. So you take a choice two years, three years?

Councilmember Swegles: I think 2010 is apropos.

Councilmember Howe: There you go. Sometime during the year of 2010 this provision will be reviewed after we have some real time, I don't know data, if that's the right thing, real time experience.

Councilmember Swegles: And I believe your motion was to not allow...or to prevent any trailers being put close to neighborhoods.

Councilmember Howe: That's correct. The idea there is that the Director would be allowed to adjust for residential that's immediately there. So, deal with walls, as councilmember here said and the closeness to residential as well as other things. Look at the given situation and try and apply some logic to it.

Mayor Spitaleri: Okay, I'm going to give time for the Clerk to write all of that down. And then I'm going to ask the applicant to come up here one more time. If you want to. You don't have to speak if you don't want to.

Ryan Gleason: Well, I think...I appreciate everyone's comments. And, mainly what I was thinking about was the skirting and what may be subject to the Director of Development. And I just want to put forth that we have a vested interest in the dumping. It's probably going to cost us \$1.4 million this year in dumping alone. And we do our absolute best to minimize that. I've already got a couple of ideas in my head on skirting, so...yeah, yeah, I'm thinking something fixed and maybe rigid, folding out that can be put on the trailer at nighttime. I don't know, we'll think of something, so. Yeah, yeah, okay. Thanks everyone.

Mayor Spitaleri: Thank you.

Ryan Gleason: Who do I give this to?

Mayor Spitaleri: The Clerk right there, I'm sorry. Vice Mayor Hamilton.

Vice Mayor Hamilton: I just want to comment. While I appreciate your attempt, John, to take another look at this down the road, my concern is that most of these trailers have been there for decades. And I think as Trudi mentioned, there's some activity going on right now. My concern is that by the time 2010 rolls around, the current trailers will have been dealt with and I don't see anymore on the horizon. So I'm not really sure that it's going to be as much of an issue in 2010 as it is now.

Mayor Spitaleri: Okay. If there's no other comments, questions. Councilmember Whittum.

Councilmember Whittum: Thanks, just one last comment. I think, I guess kind of the picture that I'm worried about is if I think about locations PetSmart, Best Buy areas in there, is there a really good place for a donation trailer there? Perhaps not. And I'm just concerned about ending up with a donation trailer that disturbs the residents. I appreciate all the comments that were made, but I'm favoring the staff recommendation. Thanks.

Mayor Spitaleri: Before we vote, can we have the Clerk read back the motion.

City Clerk Borkowski: An ordinance of the City Council of the City of Sunnyvale... oh, you wanted the motion or the...

Mayor Spitaleri: I guess we would have to...So we would have to...

Trudi Ryan: I would be happy to assist in repeating the motion, if the Clerk wasn't able to jot it down.

City Clerk Borkowski: Pardon me?

Mayor Spitaleri: There was a motion made by Councilmember Howe and I like to have that be read. But I think does that change the language of the ordinance and does the ordinance have to be rewritten before we vote. Somebody help me here?

City Attorney Kahn: The ordinance will be drafted based on the motion that passes, so the ordinance title will be the same. And we'll bring the final ordinance for the second reading

based on Council's action.

Mayor Spitaleri: Okay, great. Okay. If we can have the motion restated.

Trudi Ryan: I've been asked to restate the motion.

Mayor Spitaleri: Okay.

Trudi Ryan: Councilmember Howe moved and Councilmember Swegles seconded the motion to adopt Alternatives 1: adopt the Negative Declaration; 2 which is Alternative, excuse me Alternative 3 which is a modification of Alternative 2 on introducing the ordinance and changing all the references from Use Permit to Miscellaneous Plan Permit and approval would be by the Director of Community Development and then number 5 is to approve the Special Development Permit subject to the conditions included in the staff report.

Mayor Spitaleri: Okay. Are we all clear?

Trudi Ryan: I'm sorry, I neglected to state the motion also included an emphasis on not negatively immediately residential areas, which is covered in the draft ordinance, "care should be taken to minimize potential adverse impacts on adjacent residential uses by appropriately sited donation trailers." So unless the Council wishes further clarification, I think we may have been able to address that issue for you.

Mayor Spitaleri: Thank you.

Trudi Ryan: It's in the draft policy.

Mayor Spitaleri: City Manager.

City Manager Chan: Also to review that in January 2010.

Councilmember Howe: No, no not January. Any month but January in 2010.

City Manager Chan: Well, thank you.

Mayor Spitaleri: Okay. I'm going to try this. We're going to get through this. If there's no other questions, comments or suggestions, please vote.

City Clerk Borkowski: And I'll read the ordinance prior to the display of the vote.

Mayor Spitaleri: Okay.

City Clerk Borkowski: An Ordinance of the City Council of the City of Sunnyvale Amending Table 19.20.030 of Section 19.20.030 (Permitted Conditionally Permitted and Prohibited Uses in Commercial Zones) of Chapter 20, (Commercial Zoning Districts) of Article 3, (Zoning Districts Uses and Related Development Regulations) of Title 19 (Zoning) of the Sunnyvale Municipal Code to Allow Donation Centers for Used Goods in the Neighborhood Commercial (C-1) Zoning District and to Eliminate the Separation Requirement.

City Clerk Borkowski: Motion passes five to two (5-2) with Vice Mayor Hamilton and

Councilmember Whittum dissenting.

5. RTC 08–206 Residential Water Metering Study Issues DPW 01 and DPW 05, and Related Revision to Council Policy 3.1.2 *Metering of Water Utilities for Residences*

Jim Craig, the Superintendent of Field Services, Department of Public Works presented the staff report. Director of Public Works, Marvin Rose and Revenue Systems Supervisor, Tim Kirby were also present.

Mayor Spitaleri: Councilmember Swegles.

Councilmember Swegles: Yeah, I had a discussion with the city attorney in case those are wondering. I do have an understanding in regards to the metering of mobile homes. The discussion was that there is no financial benefit that the mobile home communities will receive by this report or passing this ordinance, that I will gain anything by voting yes or no on this report. So I will be not abstaining.

Mayor Spitaleri: Thank you. Any other questions of staff? Councilmember Whittum.

Councilmember Whittum: Thank you. I was wondering about the cost implications or cost per units on some of the other alternatives. You had mentioned alternative one and then of course we have alternative two which is request staff prepare a revision to require that all future residential units have individual water meters. That's not among the recommended but it's one of the alternatives. Then item three was: modify to require that mobile home parks be retrofitted within five years. So my basic question is do we have information on the cost per unit implications of those measures and where those costs fall, presumably on the property owner, it's some kind of a new requirement? So I'm asking you in the context, if hypothetically, if we got interested in item two or three what kind of numbers might we be talking about? Presumably, there's some new plumbing, perhaps the new plumbing itself, in addition to the water meters might also come into the costs.

Jim Craig: I don't have numbers with regards to precisely what the costs would be. Of course any kind of a retrofit situation is going to tend to be more expensive than a construction when initially installed.

Marvin Rose: Let me add to that as well. The mobile home association is here tonight. They probably are better able to respond to the cost to do it in the mobile home parks.

Councilmember Whittum: Okay.

Marvin Rose: But I wanted to clarify, both of those scenarios would be a cost to the owners of the facilities.

Councilmember Whittum: Right.

Marvin Rose: So there is no City cost. But it would just be a requirement that the City would put that they would individually meter.

Councilmember Whittum: Right, right. Okay. Thank you.

Mayor Spitaleri: Councilmember Swegles.

Councilmember Swegles: Yeah, in regards to that, I...as part of the report, you'll notice the substantial savings that we have. And have we looked at any other areas? I know this is one report for certain number of mobile homes. But have we looked at any other areas to see if they've implemented a similar program?

Jim Craig: There other jurisdictions that have implemented, for instance in apartments or condominiums, separate meters. And they identified the savings...tend to be in the general range, somewhere to fifteen to thirty percent, something like that, depending upon the specific indications, the amount of landscaping, the size of unit and that type of thing.

Councilmember Swegles: Thank you.

Mayor Spitaleri: Vice...Councilmember Howe.

Councilmember Howe: Thank you. My question has to do with finances and so...Tim why don't use this, unless Marvin you're ready to go strictly on numbers here. Tim or any of you, I don't care, take your shot. We have a tiered water system and they charge a certain amount for the size of the pipe that's coming in, I think, or it says five eighths, or something like that, and you pay one fee for it. And then you pay X amount of dollars for the first so many cubic feet and then Y amount of dollars for the next amount, okay. The question is, does the charge for the size of the pipe coming in, which I believe that's the chart, one of the charges, does that actually pay for the water meter?

Tim Kirby: The way the rates are structured is there are basically, there are two basic charges in all of our customer groups. They are what you're reflecting as [unintelligible], what we call fixed charges, which are based on meter size. Those are intended to reflect, basically to cover the costs of the base water system. So the pipes, the meter, some of the administrative costs, like meter reading and those charges are based on meter size because then that accurately reflects the types of demands the specific customer is putting on the system for the fixed costs. Then there are the commodity charges, which you discussed, which are the inclining tier block and those are designed to encourage conservation. So to answer your question, very shortly, yes it does include the cost for the meter.

Councilmember Howe: Thank you.

Mayor Spitaleri: Vice Mayor Hamilton.

Vice Mayor Hamilton: I didn't see in here anywhere a mention of radio read versus the manual read meters. Does it really make a difference for these activities whether it's radio-read or not? I read the stuff about it being on private property and staff not having access and all that stuff. And that made sense to me, but it also seems that if you had a master meter but then you also had separate meters on individual things, a radio read would be a much easier way to deal with the private property issue as long as you're not being required to maintain those. You just need to know what the meter says.

Tim Kirby: The report...currently for all city meters, we're going with radio-read. And the report would be consistent with that. In other words, wherever we have a meter and a public right of way, any new meter or any retrofitted meter is radio read. I don't think the report gets into the detail whether we would ask, you know, a mobile home park or an apartment or condominium to, to do manual versus radio because they're

generally...when those are private meters, they're reading so they make that economic decision as to whether it's more cost effective for them to do radio read or do manual read.

Vice Mayor Hamilton: Okay. Alright. Thank you very much.

Mayor Spitaleri: Councilmember Swegles

Councilmember Swegles: Yeah, in regards to that. I think it actually stated in there, that the private properties, or the mobile home communities, if they were to convert to meters they would be responsible to read the meters as well as maintain the meters as well as the cost of the meters, with the exception of any water programs that the water district may have in regards to that...those programs.

Jim Craig: That's right. The recommendation is that in any case where we do go from public to private property, that there be a meter installed. And if there are separate units, and possibly separate meters beyond that point, there would at least be a master meter. And that would be the basis upon which the property was charged.

Councilmember Swegles: Okay. Thank you.

Mayor Spitaleri: Okay, if there's no further questions, open the public hearing. First speaker card from Fran Hirsch.

Fran Hirsch: Mr. Mayor and members of the City Council, I'm afraid that there is a great deal to explain here and you've been given some information which is either mis...incorrect or misleading. I have managed the program that we've had to install water meters in our communities and we have now installed water meters in, well let's see, I guess it's five of our San Jose communities. There are two of them that are coming on line shortly. The meters are in at one park in Campbell, we've done one park in Sunnyvale. We are very anxious to continue this program. But there are a lot of economic issues to be addressed here, and particularly in Sunnyvale. The thing is, that we cannot go ahead and install water meters in another eleven hundred spaces in Sunnyvale. That would be mean considerable savings on water use in the city. Unless we can have a means of recouping our costs of installing, of buying and installing those meters. We don't do it through what we charge our residents, because State law requires that we reduce the rent by the average amount of usage...resident usage. And we have a study done to determine what's common area usage and what's resident usage. So we have to reduce the rent by the average of resident usage over the past twelve months. Plus we need to charge the service charge. Why do we need to charge that? Because you raise it periodically. You raise the residential service charge, so we then raise it. And through those raises, we recoup a part of our costs of buying and installing those meters. That total runs approximately one hundred fifty to one hundred sixty dollars per space to install, to buy and install the meter. We can get a subsidy from the water district for one hundred dollars of that. We need to recoup by some means that other fifty to sixty dollars. And as I said, the easiest way for us to it, is through those increased over time in the service charge. We need to charge residential rates, not the rates that we're being charged, but your residential rates. Because...I know my time is up, but I...should I continue?

Mayor Spitaleri: No, you need to go by that. We do have a question. Councilmember Whittum.

Councilmember Whittum: So just so I understand, you were going to say you're not allowed to charge different rates, can you finish that thought?

Fran Hirsch: That's exactly the point here.

Councilmember Whittum: Okay.

Fran Hirsch: We need to charge the residential rate. Currently, we have meters in our Fox Hollow Mobile Home community. It's a small community. It's ninety-nine spaces. We received no subsidy to install the meters there, so the costs of installing them there we footed totally. Okay. We are charging our residents the residential rate. We are being billed at the multi-family rate. Therefore we are buying water at the lowest tier. I believe it's four CCFs at the lowest tier. Our residents are being billed at six CCFs at the lowest tier.

Councilmember Whittum: So...

Fran Hirsch: So we are currently subsidizing our residents. Now you know you might say, well why don't we just switch over to what we're being charged? We can't charge the service charge then, because the service charge is wedded to the residential rate.

Councilmember Whittum: Okay. Thank you. So it seems like these are important details and I don't feel like I have them in my report. Do I have them in...are they in our report?

Fran Hirsch: No you don't. What you have in here is a statement that suggests perhaps a special rate be established for mobile home parks and other similar types of multi-family where meters are installed. But there wouldn't be any service charge attached to that and if there were, it would be an artificial one. So once again, we lose the ability to recoup our capital cost. So I really..I'm disappointed there wasn't a study session on this subject. There are so many issues here, you know, that's the key one for us. And we can't go ahead unless we know we can recoup our costs. Oh, and we know it's going to take us ten years to do it. We're willing to assume that so long as we know there's some light at the end of the tunnel.

Councilmember Whittum: Mr. Mayor, if I could. I guess I have a question of staff, although it's a little bit open-ended. Basically, I'm was kind of hoping to see...it sounds like there's a number of different numbers that would be interesting to look at. I did get a cost per space number. There are two different rate structures. There's also the potential savings which accrue to somebody. And then there's also the question of equi...equitable...Well, let me just say, there's the question of what the folks are actually paying for the water in the end. In the end they're going to be using probably less water.

Fran Hirsch: Absolutely.

Councilmember Whittum: And...so it seems like there's almost a matrix I'm missing of all these different numbers. Or maybe I'm not missing it though. So let me just throw that at staff. Would staff care to comment on the discussion that just took place and the remarks?

Tim Kirby: Regarding the rate structure for mobile home parks currently under our water rates, first let me address that issue. Ms. Hirsch is absolutely correct that the State Public Utilities Code, which is what regulates a public utility such as ours, requires that they charge basically the same thing that we charge them, otherwise they come under regulation by the State Public Utilities Commission. And we often get confused by saying

PUC a lot, so I'm going to say all of the...those long sentences to make sure we keep them separate. Now what staff is recommending here to attempt to address, and I believe the intent, is that staff supports conservation efforts and supports the direction of trying to work with the mobile home parks to develop a rate structure that meets their needs so that they can achieve their conservation goals, and so what we're suggesting is that much like where we have a separate customer class for garbage, in the garbage utility for mobile home customers where they're charged a different rate than a single family customer because they have different characteristics, we're suggesting that same thing, that we do that same thing here. That we review the mobile home customer group and establish them as a separate customer class in order to try to address some of the legal issues and cost recovery issues that mobile homes have with sub-metering.

Fran Hirsch: Could I, could I respond to that?

Mayor Spitaleri: Can we...let's...sorry we need to make, keep this in proper perspective. We do have a couple of questions of you. And I want to get that, if I may.

Fran Hirsch: Certainly.

Mayor Spitaleri: Councilmember Lee.

Councilmember Lee: Yes, thank you Fran. So basically there are two issues regarding the costs of...from the mobile homes perspective. One is the cost of installing of the meters. It sounds like that actually is much smaller issue given the fact that there is a subsidy from the water district footing most of the bill for meter. The much bigger issue seems to be the difference of the rates based on the State law, what's being required to charge in the multi-family rate versus the residential rate. So that's the one that we need to figure how we can resolve that rate differential.

Fran Hirsch: It is both issues for us. And if they're not resolved, we can't go ahead. And I can tell you, quite frankly, that we're ready to go now. We're done with the projects that we were doing up to this point. And we're ready to go. And as I said, I'm disappointed that we're not at the point where we could say, we're ready to go ahead here.

Mayor Spitaleri: Okay, Councilmember Moylan.

Councilmember Moylan: Yes, there are two things in the staff report I want to just bounce off you.

Fran Hirsch: Great.

Councilmember Moylan: One is in this chart...

Fran Hirsch: Yes...

Councilmember Moylan: that describes all the types of residences and it says what the staff recommendation is here, when we get to mobile home parks, which is page fourteen, it says, the current staff recommendation does not apply to existing mobile home parks.

Fran Hirsch: I'm looking at page fourteen...

Councilmember Moylan: Right, and there's these boxes.

Fran Hirsch: Yes.

Councilmember Moylan: If you look at the bottom row of boxes, which is the mobile home parks...

Fran Hirsch: And you...[unintelligible]

Councilmember Moylan: the third box over, the very last sentence says, does not apply to mobile home parks.

Fran Hirsch: I'm sorry, I'm not seeing that. I don't understand why. I'm looking at, it says mobile home park on the left and then we go to public meter...

Councilmember Moylan: Right.

Fran Hirsch: And then you're saying that...

Councilmember Moylan: and then the next box over, the longer paragraph.

Fran Hirsch: Oh, I see here. Okay it's the middle one.

Councilmember Moylan: Right. Does not apply to existing mobile home parks. Doesn't that basically solve your problem?

Fran Hirsch: No.

Councilmember Moylan: Oh.

Fran Hirsch: Okay. It says a separate meter for irrigation. And that's absolutely true. As a matter of fact, there's an incorrect statement on an earlier page that says that we would install meters on the common areas. And that's not necessary. We install the meters on the residents' spaces and therefore everything else is our obligation...

Councilmember Moylan: Sure.

Fran Hirsch: to pay.

Councilmember Moylan: Okay and then the other question was...I think it was mentioned by the staff already, but it says in here that the Finance staff is working on to come up with a new category of billing to make it worth the mobile home park's while to do this conversion. And that doesn't appear to be part of the action that we're being asked to come up with tonight. That appears to be something they're working on that might come before us in the future.

Fran Hirsch: I understand that. But obviously the staff direction is to develop a separate rate structure for mobile home parks. And what I'm saying is that that doesn't solve our problem. It solves our problem insofar as usage is concerned, but we can't charge a service charge that we can expect to go up over time. And therefore we cannot recoup the balance of our capital costs. And this is an optional program for us. I mean, I was amazed to see in here, that it would be an absolute requirement that mobile home parks install

meters within five years. I mean...

Councilmember Moylan: Yes, as I read this, it's only new ones, as opposed to non-existent ones.

Fran Hirsch: Is it?

Councilmember Moylan: This does not apply to...maybe I'm reading that wrong.

Fran Hirsch: It said retrofit.

Vice Mayor Hamilton: It's not staff recommendation.

Councilmember Lee: It says alternative three.

Fran Hirsch: It said retrofit. That says to me we're required.

Councilmember Moylan: I'm not talking about alternative three. I'm talking about the boxes on page fourteen which have the staff recommendation, which is just alternative one taken into account. In other words, staff is not recommending alternative three. Staff is recommending alternative one and saying if we want to do this for apartments, we might want to consider alternative two, but staff is not recommending doing anything with the mobile home parks. And therefore...

Fran Hirsch: Okay.

Councilmember Moylan: So in other words, what do you want us to do?

Fran Hirsch: What I want you to do is to give us the residential rate when we install meters. That will solve our problem. If we have the residential rate, we can go ahead.

Councilmember Moylan: Okay. Now that sounds like it's an action that Finance staff is working on that may be coming down the road. Is that what I was hearing, correctly? Or is that something that's before us tonight?

Tim Kirby: That is not before us tonight.

Councilmember Moylan: Yeah.

Tim Kirby: And changing the rate ordinance would require a separate hearing.

Councilmember Moylan: Correct.

Tim Kirby: That's what we're talking about.

Councilmember Moylan: Okay, so now we're just talking who do we require to put individual meters. And staff is recommending all the owned residences and saying maybe we should think about also doing apartments. And they're not saying, at the moment, it sounds like do anything to mobile home parks.

Fran Hirsch: Thank you.

Councilmember Moylan: So are you set? Are you in agreement with the staff recommendation?

Fran Hirsch: I'm fine at this stage. But I thought it was very important that I make clear to you what we need. I think you want us to go ahead and install meters. And we want to do it. So let's make it happen.

Mayor Spitaleri: Okay.

Councilmember Moylan: Okay. Did I get anything of that wrong, staff? Was that...okay. Great. Thank you.

Fran Hirsch: Thank you very much.

Mayor Spitaleri: Do we have one more question? Councilmember Swegles. Fran, Fran don't go away yet.

Councilmember Swegles: Fran, one more. You mentioned about the common areas and breaking it out and how we would do that. If we were to go to meters, you might elaborate in regards how we would wind up being...having the ability to that with the new program that we have.

Fran Hirsch: What we do is we simply meter every space and the resident pays for his usage at hopefully the same rate as single...the same basis as single family residence do. We pay the bill. We pay the entire bill and they pay us. As far as the meters themselves are concerned, the question came up about the...

Vice Mayor Hamilton: Radio read.

Fran Hirsch: Yeah, the radio read. They're very expensive. We've looked into that. And what we are installing is simply a water meter on the line. The installations are complicated because people have all kinds of things hooked in and so on. But...and then the managers who read the gas and electric meters also would read the water meters.

Mayor Spitaleri: Okay. Thank you. Next card I have is from Jim Griffith.

Jim Griffith: Good evening, my name is Jim Griffith. I'm a Sunnyvale resident and a member of Cool Cities. I don't represent Cool Cities, but I do represent three or four of its members who view this as a sustaina...sustainability issue. The lack of accountability without individual metering has a dramatic effect on individual water use. Speaking as myself, I'm president of an HOA that does not have individual metering and I have no idea what my water usage is. We've seen huge jumps in yearly usage because there is no accountability. The bills are essentially paid through the HOA dues, but the residents don't associate HOA dues with water usage. And worse, a large proportion of our residents are renters, who don't even see the HOA dues. So they come in and they feel like they can do whatever want and our usage goes up accordingly. I agree with Alternatives one and two. Two places some requirements on builders which concerns me a little bit, but I'll point out that Danbury Place was recently built and they do have individual meters that they built on their own accord. So clearly builders are willing to do it in some cases. I like number three but it places too great a burden on mobile home parks, so I don't think it's a good idea. I think the City should encourage or incentivize individual meters being retrofitted, but I don't they should require it. Number four doesn't worry me as a property owner, in terms

of access, because on our property we already have PG&E, AT&T, Comcast, fire alarm management companies coming into our properties all the time, all the time and having the City people coming in doesn't concern us. There are obviously financial or liability issues for the City, which I think makes this not a very trivial issue, but I do think it's at least worth considering. In terms of HOAs dividing up metering and stuff like that, I was a little bit concerned with forcing private HOAs to deal with this themselves. Because as an HOA president, we're not going to run around and check individual meters, if it's privately done, and I kind of wanted this to be more of a City thing - have the City come in and read it. But Danbury Place is a new one, and they actually have a system where the meters are in garages out of access. And the results of the meters are actually transmitted to St. Louis where they're gathered up there and then the individual owners are billed. So modern technology has sort of apparently done away with a lot of my concerns in this regard. And that's what I had to say. Thank you very much.

Mayor Spitaleri: Thank you. The next speaker is Arthur Schwartz.

Arthur Schwartz: Mayor and Council, last week I spent the morning at a sustainability conference sponsored by Sustainability Silicon Valley. It was a marvelous forum and one of the things that was discussed was water. If we're not in trouble now on water, we will be within ten or fifteen years. So I urge the Council to take whatever steps are...are in order to get meters, metered water on every resident in the City of Sunnyvale, whether it be mobile home parks, private residences that were built before meters were required, or apartment and other forms of housing. It's critically important that people know what they're using and are charged for what they're using so that the overall consumption of water is reduced drastically over the next ten to fifteen years. Thank you.

Mayor Spitaleri: Thank you. That was the last of our speaker cards, so I'll go ahead and close the public hearing. Vice Mayor Hamilton.

Vice Mayor Hamilton: I have a question of staff.

Mayor Spitaleri: Okay.

Vice Mayor Hamilton: One of the speakers brought up an interesting point, where in some of the older townhouse complexes, you might not have a spot where you could realistically put a water meter, or you might not have a home owners' association infrastructure that could deal with reading those. I realize that this is totally out of left field, but what would be the possibility of the City carrying out that function for those things as a contract basis and billing it back to the HOA in communities that would not have another alternative?

Marvin Rose: Let me respond to that one. What we've tried to do here is was deal with the general issue of public versus private and make it very clear and easy to distinguish between the two. As soon as we start doing some of that, then we get into the problem that we had about a year ago on the conversion of the mobile home park that went to high density residential and why couldn't they have individual meters. They were on private property was the reason why. We ended up putting them in there at the Council's direction and now we're going on private property to read public meters, which creates problems for us. There are also substandard right-of-way, substandard utilities from public streets standards. They meet the requirements for private streets but not for public streets. So for all of those reasons, we tried to draw a line that was easily distinguished and put the onus on the City where it was public right-of-way and on the private property owner where it was not. Now to get to your question, I don't know the specific answer to the issue of can

we do it. I know the City has looked at doing similar types of things in the past. Some of the Councilmembers may remember there was a suggestion at one time that we buy street trees for residents and put them in all around the city in private property and have them reimburse us. The nursery people didn't appreciate that and came out in droves to explain why we shouldn't be doing that. But there's a lot of issues that would come up if we chose to do private work. And it's a basic issue over this is a public utility and we should doing work of the public not of the private. So I think there's some problems with that.

Vice Mayor Hamilton: Okay. Fair enough. Thank you.

Mayor Spitaleri: Councilmember Lee.

Councilmember Lee: Thank you. Staff one of the questions is regarding the usage by apartment and there's staff recommendation for the future on alternative two, if we would like to we could do alternative two to asked that all future residential apartments, for example, would have those private meters. I can understand that. But I guess one of the biggest problems we have is the current, current multi-residential units where there's no metering. And I myself was a bad actor when I was a renter in the college campus and used a lot of water because it didn't really cost me anything. And I think that's a bad habit people develop, because it doesn't cost them anything as mentioned by the other speaker. Now current...alternative here is talking about only the futures. As for the current, right now the current alternative is an exemption for the current units. If we would like to give a time frame of a retrofitting of the current residential apartments, so that this would be able to be worked on, is this something that the City would need to a) pay for it or b) is there other incentives right now by the water district that encourages this type of private metering in multi-family units?

Marvin Rose: I'm not aware of any incentives by the water district for that kind of use. One of the major problems with that issue, is that the systems aren't set up for individual metering. So typically what happens is you'll have a manifold that is serving a whole building. There is no place to put individual meters. So it would require extensive retrofitting of the facilities. Can the City do that? Yes. The City can require, over some kind of period of time that they think is appropriate, retrofitting of everything to provide water meters. You may be aware about eight years ago the state of California required that all services be metered, period. Sounds like a simple issue. Sacramento County had zero meters in the entire county of Sacramento. Huge impact on the city and county of Sacramento to go back and they have to retrofit every single purchaser of water with a meter. Now it didn't resolve that issue because that meant an apartment owner was a purchaser of water. One meter got installed. But it required that they install meters everywhere where they weren't already existing. To retrofit apartments is extremely cost prohibitive. Can you do it? Yes.

Councilmember Lee: So, according to the alternative two, since we're talking about future developments, the cost prohibitive part probably wouldn't be as bad because they could plan it in at the planning stage. [unintelligible]

Marvin Rose: That's right you design it in. And I wanted to respond to one other issue, the mention before about the metering of common areas. The reason we suggested the metering of common areas, is for predominately leak detection. If you have a lot of areas in...in a mobile home park, for example, but this could be a multi-family development as well, and you have a leak somewhere, the easiest way to find that leak is to start running

down the meters and see if the meter rate matches what the use is. We do that on own facilities. We put meters in where you wouldn't be required to do it. However, that is an option and it is on site. So if the Council wants to take the position of not being as prescriptive to require a meter for a common area, we don't have a big problem with that. We think it's probably production for the users to put 'em in, but not a major issue for us.

Councilmember Lee: Okay, thank you.

Mayor Spitaleri: Councilmember Howe.

Councilmember Howe: Yeah, I want to make a motion, so if Councilmember Whittum has a question, if you would recognize him I would appreciate it.

Mayor Spitaleri: Okay, Councilmember Whittum.

Councilmember Whittum: Ah, thank you. I'm not really seeing the downside of alternative two and I wanted to just ask...I mean it sounds like there's...clearly there's...if we require for new construction individual water meters, we're adding a cost to housing. I don't know the exact number, but it...it might be in the range of one hundred and fifty bucks a unit or something based on what I've heard earlier, although I realize that was for a different...that was for a mobile home. But could I just ask staff, what is the downside of alternative two other than adding what I would say is a small increment to the cost of a unit?

Marvin Rose: I think you've... you've hit it.

Councilmember Whittum: Okay.

Marvin Rose: It's really a future cost.

Councilmember Whittum: Okay.

Marvin Rose: It's a lot smaller than a retrofit cost, but it is a cost.

Councilmember Whittum: Yeah. Okay...and okay. Thank you.

Mayor Spitaleri: Councilmember Howe.

Councilmember Howe: If a motion's in order. I move alternative two...one and two.

Mayor Spitaleri: Is there a second?

Councilmember Howe: Sorry. And in number two also include, as one of the speakers mentioned, there's stuff to do with mobile home parks. I think that's too much to deal with now, so exclude mobile home parks and deal with them separately. But also there's condominiums, etcetera, that are out there that would have very similar kind of problems as the mobile home parks talked about on the costs per whatever unit of water there is. So it'd be item one, item two and also going into page number eleven, existing facilities exemption, where it say's staff suggests that existing residential units should be exempt from having to retrofit to satisfy revised policy unless renovated, I'd like to see a definition of renovated or a definition of significant remodeling, so that we would know exactly at what level we were going to trigger something. Because it is a significant issue.

Mayor Spitaleri: Councilmember Lee.

Councilmember Lee: I'll second it.

Mayor Spitaleri: Okay.

Councilmember Lee: And I would like to also ask for a friendly amendment or a friendly suggestion here. Is we talked about changing in to residential rate, so I would like to see if staff could get back to council in the future regarding considering of the water rates to residential for mobile home parks that would adopt a sub-metering type systems.

Councilmember Howe: Sure. I mean I don't have a problem with...

Councilmember Lee: Okay.

Councilmember Howe: asking for the information. But this isn't adopting that policy right here, saying this is what you're gonna do. If that's the intent of it...

Councilmember Lee: Yeah.

Councilmember Howe: the friendly amendment, that's just fine. And that might also happen also in condominiums where there's master meters instead of individual meters as well.

Mayor Spitaleri: Vice Mayor Hamilton.

Vice Mayor Hamilton: Can you clarify that last bit for me, real quick, the friendly amendment?

Councilmember Howe: Otto's friendly amendment?

Vice Mayor Hamilton: Yeah.

Councilmember Howe: Otto.

Councilmember Lee: Sure, I'll be happy to. Basically, the from the testimony tonight we learned that the problem with the mobile home parks not able to retrofit. One of the big problems is the fact is the rates of the water is not congruent to what's being charged to them to what's being charged to the individual...the mobile home owners. So the only way you can make that work is so that those are congruent, so therefore by my having staff come back to us on this recommendation that they said they're working on to making sure the water rates would go to the residential rate for the mobile home park, that would...that would make that congruent to make this happen. Since it looks like mobile home parks themselves want this to happen, we want that to happen to save water. So I certainly want to make this a reality for this to happen eventually.

Vice Mayor Hamilton: Okay. I have a second clarification. Looks like the City Manager has something to say.

Mayor Spitaleri: City Manager. [unintelligible]

City Manager Chan: Thank you, Mr. Mayor and the Council. As I understood the motion, the amend...the amend the motion was to have staff come back to the Council, so the decision is not tonight.

Vice Mayor Hamilton: Right.

City Manager Chan: Yeah.

Councilmember Lee: That's right.

City Manager Chan: Just want to make it clear as...for staff to come back, 'cause otherwise you're required to have a public hearing on the rates and you can't do tonight. Thank you.

Mayor Spitaleri: Okay. Thank you.

Vice Mayor Hamilton: The second clarification I have is...is the existing facilities exemption that was mentioned. The intent of the motion is to exempt the existing facilities but if they do have a renovation or whatever, and that would be the clarification that would come back to us?

Councilmember Howe: Very specifically, it...existing ones are exempt unless they do this thing. And I don't understand what do this thing is, so I'm asking for it to be defined when it comes back to us.

Vice Mayor Hamilton: You mean on the second reading?

Councilmember Howe: Well, it won't even be on the second reading because here it says staff, alternative number two, request staff to prepare a revision to the Municipal Code so when that comes back, in that...in that document, whether it's in the document or in actually in the ordinance, changing the Municipal Code, it should define...I can give you one example.

Vice Mayor Hamilton: No, it's...that's fine.

Councilmember Howe: Oh, okay. But anyway, I'm asking for a clear understanding of what's on page number eleven under existing facilities exemption.

Vice Mayor Hamilton: Okay. Thanks.

Mayor Spitaleri: Councilmember Swegles.

Councilmember Swegles: Yeah, I actually have a question of the city attorney. Now that we've changed the ah...instead of recommended, the rates to the mobile home communities and now are looking at reducing the rates to the mobile home communities, will I have...now have to recuse myself or abstain from this vote?

City Attorney Kahn: Councilmember Swegles, I don't think that the rates are before us this evening, so when the rates actually come back before you, we can take a look and I can certainly advise you on what the FPFC would require, but it wouldn't effect your vote this evening.

Councilmember Swegles: Okay, but and that's what I'm saying though. I'm actually approving us to study those rates, so I just want to be perfectly clear, is that appropo to be able to vote on this?

City Attorney Kahn: For purposes of studying the rates, yes, that's...that's okay.

Councilmember Swegles: Thank you very much.

Mayor Spitaleri: Councilmember Howe.

Councilmember Howe: Yeah, I'd like to speak to the motion.

Mayor Spitaleri: You go ahead.

Councilmember Howe: Thank you. Just very briefly, I've lived in condominiums, live in a townhouse now. And the condominium that I lived in there was a master water meter and you'd see the usage go just crazy. It was phenomenal. Where I live now, it's individually metered. It's on a private street. So I get to pay for the street. I get to pay for the cleaning of the street. I get to pay for all that stuff and the water meter that's out there, because it's individually metered. And certainly you see a whole lot more conservation of water being individually metered, in most cases. It does make a difference to individuals and I think that this is actually...Councilmember Lee mentioned it, it is a...a sustainability issue. I also think very much a green issue because we're running out of water. If you ever take the time and read the Antelope Valley Press, they've put in mandatory rationing and all kinds of very onerous things within the last thirty days because of the lack of water that has been given through the State water projects, etcetera. So I think that this is one way for us to conserve and get our water to go further in a time where it's becoming more and more precious.

Mayor Spitaleri: Councilmember Lee.

Councilmember Lee: Thank you Mr. Mayor. The issue here is the shortage of water that we have. The cost of water if you have looked at the rates that we are being charged before we get charged for [unintelligible] has gone up significantly in the last few years. We really need better water conservation measures and one of those in this case here is really just a matter of accountability. If there is no...

Unknown: [unintelligible comment]

Councilmember Lee: If there is...if there is limit, and you can use as much water as you can, this certainly encourages a lot of waste of use so I think by having individual meter, it's something that we really want and I...I...I applaud Councilmember Howe for coming up this study session...study issue initially. And I'm very glad that we finally have this great report from staff that has spent a lot of time to put this together. So I want to thank staff for a great job putting this report together and also identify some issues that's more complicated especially related to mobile home parks that I think we are moving forward to find solutions that we can also make that workable as well to reduce the water usage throughout our city. Thank you very much.

Mayor Spitaleri: Councilmember Swegles.

Councilmember Swegles: Yeah, as your representative on two different water committees,

I'm fully aware of the problem we're having with some of our reservoirs. Last year we did a tour of all the reservoirs in this area that supply Sunnyvale with water and they were extremely low. And this year, I was not able to go on the tour, but from the reports I received back, they're even lower than they were last year. And good rains are not going to alleviate that situation in any short period of time. So I'm very proud of my councilmembers to put together this type of thing. I spoke to the sustainable group in regards to the shortage of water and how we need to find special ways to conserve. And there's some programs that are going to be coming out that you all will be made aware of and I think we all need to look at just what we can do and how we can save any amount of water that we can. And this is a big step forward to do something of this type.

Mayor Spitaleri: Okay, thank you. If there's no further questions or comments, please vote. Yeah, when we get done with this.

City Clerk Borkowski: Motion passes, seven zero (7-0).

NON-AGENDA ITEMS & COMMENTS **COUNCIL:**

Mayor Spitaleri: We're now at the non-agenda items and comments. Any councilmembers? Staff? Councilmember Whittum.

Councilmember Whittum: Thank you, Mr. Mayor. I wanted to suggest for my colleagues consideration putting on a future agenda, an item which would be as follows: to reconsider...first to consider...reconsider restoration funding for the liquidambar program, about fifty K. And cutting a like amount, and I was going to suggest the digital marquee for a one hundred ninety-five K. So that's a suggestion to put something on a future agenda and I hope that I may get a second for that. Thank you.

Mayor Spitaleri: Is there a second to that motion? Seeing none. Councilmember Swegles.

Councilmember Swegles: Yeah, with the Mayor's permission, I'd like to ask us to...we received a draft a Measure A endorsement by the City of Sunnyvale and to consider that at a future meeting.

Mayor Spitaleri: You want...you want to place that on...

Councilmember Swegles: on an agenda at a future meeting

Mayor Spitaleri: agenda item. Measure A?

Councilmember Swegles: Measure A.

Mayor Spitaleri: Councilmember Howe.

Councilmember Howe: I'll second his motion.

Councilmember Swegles: Thank you. And the other thing I had...

Mayor Spitaleri: We got to vote on it.

Vice Mayor Hamilton: [unintelligible]

Councilmember Swegles: Oh, excuse me. Go ahead.

Vice Mayor Hamilton: We could just put it on.

Mayor Spitaleri: We could just put it on. This doesn't need a vote? Okay.

Vice Mayor Hamilton: [unintelligible]

Mayor Spitaleri: It's on.

City Manager Chan: Mr. Mayor, if I may. Just for your information, generally all of the ballot measures are before Council to take a position and Measure A will be part of staff report to Council in October. So if that's what Council intends, I don't think there's any action needed. Because it's already scheduled on your calendar October 7. Thank you.

Mayor Spitaleri: Yeah, but, if I may. I think the request was for us to take that item up earlier. If we were to support it then we would be part of the...helping educating the folks instead of waiting until October.

City Manager Chan: Okay...

Mayor Spitaleri: But that was my understanding.

City Manager Chan: But if that's the...that's the intent of the motion, that's, I mean the request.

Councilmember Swegles: Yes.

Mayor Spitaleri: That's the intent right.

City Manager Chan: Sorry. Thank you.

Mayor Spitaleri: Councilmember Lee. Councilmember Swegles.

Councilmember Swegles: Yeah, I had one other item that I was made aware of that a past mayor, Barbara Waldman and her husband are celebrating their fiftieth wedding anniversary.

Mayor Spitaleri: Congratulations. Councilmember Lee.

Councilmember Lee: Yes, actually I have a quick comment regarding the analysis for issues on the November ballot. Given the fact that the absentee ballot, these days, comes out four weeks before the election date, November 7th...I mean October 7th, even though it's on the schedule, currently on the calendar, I would suggest or request staff, in the future to probably put these type of items out probably about a month and a half to two months at least before the election in order to give enough time for the public to get the word out. Last thing you want is to have people receiving the ballots before the...before the City adopts a position. I think it would be more timely if we could do that a little bit earlier. Thank you.

Mayor Spitaleri: Thank you. I do have two items I want to talk about real quick. One, I want to thank Vice Mayor for standing in for me when I was absent, while I attended the conference of mayors. It's quite a eye opening. Close to three hundred mayors. We dealt with a hundred and

sixty resolutions, that dealt from environmental, transportation, housing, you name it, it was quite an eye opening. A lot of work to be involved in the various committees I sat on. So that was a great experience. The second thing I'd want to make an announcement, that I'm going establish Mayor's Blue Ribbon Committee to look into the paramedic service to the City of Sunnyvale. I would request from my colleagues, that you'd submit some names for me to put on that committee. And I'd like to have that as soon as possible 'cause I want to move forward to look at the issue as it, paramedic service, impacts the City of Sunnyvale and its relations to the county. Councilmember Moylan.

Councilmember Moylan: The committee you want to form, this is a committee of citizens, is that what you're saying?

Mayor Spitaleri: It could be a citizens. I...you know...and I would like them submit them to me. And I'd like to put that committee together as soon as possible.

Councilmember Moylan: Great. Thanks.

STAFF: None.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- Approved Minutes of the Housing and Human Services Commission meeting of April 16, 2008
- Approved Minutes of the Housing and Human Services Commission meeting of May 28, 2008
- Approved Minutes of the Heritage Preservation Commission meeting of June 4, 2008
- Draft Minutes of the Bicycle and Pedestrian Advisory Commission of June 19, 2008
- Draft Minutes of the Housing and Human Services Commission meeting of June 25, 2008
- Draft minutes of the Heritage Preservation Commission meeting of July 2, 2008
- Study Session Summary – Update on Paramedic Services – June 24, 2008
- RTC 08-205 Board and Commission Resignation (Information Only)
- RTC 08-214 Vacancy and Rent Survey (Information Only)

ADJOURNMENT

Mayor Spitaleri: And that's all I have. Anything else. Hearing none, we will now adjourn to closed session, there's some outstanding items. We will adjourn to the Closed Session at 9:19.